

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN**

In re:	§	Chapter 13
	§	
Stanley Leroy Ennis and Linda Ruth Ennis,	§	Case No. 15-00819-jtg
	§	
Debtors.	§	

**OBJECTION TO CONFIRMATION OF DEBTORS’
CHAPTER 13 PLAN**

Nationstar Mortgage LLC (“Nationstar”) objects to Debtors’ Chapter 13 plan (the “Plan”) as follows:

1. Debtors filed a petition for relief under Chapter 13 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”) on February 18, 2015.

2. On February 17, 2005, Debtors as Trustees of the Ennis Revocable Trust Dated October 14, 2002, borrowed \$136,000.00 from Trane Financial, Inc. (“Trane”) pursuant to an adjustable rate promissory note (“Note”), a copy of which is attached as Exhibit A.

3. On February 17, 2005, Debtors as Trustees of the Ennis Revocable Trust Dated October 14, 2002, executed a mortgage (“Mortgage”) granting Mortgage Electronic Registration Systems, Inc., as nominee for Trane, a security interest in the real property located at 4341 Holt Road, Holt, MI 48842 (the “Property”). A copy of the Mortgage is attached as Exhibit B. The Mortgage was recorded with the Ingham County Register of Deeds on March 21, 2005.

4. On September 26, 2011, the Mortgage was assigned to Bank of America, N.A., Successor by Merger to BAC Home Loans Servicing, LP, f/k/a Countrywide Home Loans Servicing, LP, a copy of which is attached as Exhibit C. On March 5, 2013, the Mortgage was assigned to U.S. Bank National Association as Trustee for Harborview 2005-2 Trust Fund, a

copy of which is attached as Exhibit C. On May 1, 2014, the Mortgage was assigned to Nationstar, a copy of which is attached as Exhibit C.

5. Nationstar intends on filing a secured proof of claim (the “Claim”) in the amount of \$186,033.49. The total amount of the Claim includes the unpaid principal balance of \$146,215.08 and accrued interest of \$21,520.04. The post-petition monthly payment amount owed to Nationstar is \$2,441.30. A copy of the account statement is attached as Exhibit D.

6. Debtors are in default on the Note. The pre-petition arrearage is \$72,216.39, which consists of \$52,645.06 in unpaid installment payments and \$19,571.33 in fees, costs and the repayment of the escrow deficiency.

7. On March 17, 2015, Debtors filed their Plan. It provides that the postpetition monthly payment amount owed to Nationstar is \$500.98 and that the estimated prepetition arrearage is \$0.00.

8. Section 1322 of the Bankruptcy Code sets forth criteria for confirmation of a Chapter 13 plan of reorganization. Section 1322(b)(2) states that a Debtor may modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence. Section 1322(b)(5) allows a debtor to cure prepetition arrears on a mortgage that is in default when a bankruptcy case is filed. 11 U.S.C. § 1322(b)(5).

9. Because the purpose of Section 1322 is to allow debtors to cure a prepetition default, the amount of the prepetition arrears must be paid in full in accordance with the underlying Note and Mortgage. *See In re Long*, 453 B.R. 283, 289 (Bankr. W.D. Mich. 2011) (holding that claims secured only by the debtor’s principal residence are immune from modification); *In re Stiller*, 323 B.R. 199, 211 (Bankr. W.D. Mich. 2005) (“[A] Chapter 13

debtor can, as part of his plan, cure a pre-petition arrearage under a home mortgage loan . . . within a reasonable time.”).

10. Confirmation should be denied as Debtors’ Plan proposes to repay Nationstar an incorrect monthly postpetition payment amount and the Plan does not specify that the Claim controls with respect to the sum of the postpetition payment.

WHEREFORE, Nationstar respectfully requests that this Court enter an order denying confirmation of Debtors’ Chapter 13 plan.

Respectfully Submitted,

WEINSTEIN & RILEY, P.S.

By: /s/ Evan L. Moscov

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Objection to Confirmation of Debtors' Chapter 13 Plan was served on the following parties by electronic service via the Court's ECF filing system or by first-class mail on April 14, 2015:

Trustee via E-Filing

Barbara P. Foley

Chapter 13 Trustee's Office
The Cornerstone Building
425 West Michigan Ave.
Kalamazoo, MI 49007

Debtors' Counsel via E-Filing

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Debtors via First-Class Mail

Stanley Leroy Ennis and Linda Ruth Ennis

4341 Holt Road
Holt, MI 48842

By: /s/ Kia Gill

Kia Gill

Assistant to Evan L. Moscov